

VIA ELECTRONIC MAIL

July 3, 2014

Jacob Gennicks, Mine Engineer
Sunrise Coal, LLC
1183 East Canvasback Drive
Terre Haute, IN 47802

Dear Mr. Gennicks:

Re: NPDES Permit No. IN0062791
Permit Modification
Sunrise Coal – Carlisle Mine
Carlisle, Indiana
Sullivan County

Your request for modification of the above-referenced discharge permit has been processed in accordance with Section 402 and 405 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, et seq.), and IDEM's permitting authority under IC 13-15.

The enclosed pages are intended to replace the corresponding pages of your existing NPDES Permit No. IN0062791. An accompanying Briefing Memo itemizes and explains the rationale for the revisions. All discharges from the referenced facility shall be consistent with the terms and conditions of this permit, as modified.

Pursuant to IC 4-21.5-3-2(e) and IC 4-21.5-3-5(f), the determination of modification in this letter becomes effective eighteen (18) days after it is served by U.S. mail. Any party adversely affected or aggrieved by this decision may appeal the modification by filing a request for an adjudicatory hearing with the Office of Environmental Adjudication (OEA) eighteen (18) days after the date of mailing of this letter at the following address:

Office of Environmental Adjudication
Indiana Government Center North
100 North Senate Avenue, Room 501
Indianapolis, IN 46204

Please send a copy of any such appeal to me at the IDEM, Office of Water Quality - Mail Code 65-42, 100 North Senate Avenue, Indianapolis, Indiana 46204-2251. Any appeal request must be filed in accordance with IC 4-21.5-3-7, IC 13-15-7, and the enclosed Public Notice. The appeal request must include facts demonstrating that the party requesting appeal is the applicant, a person aggrieved or adversely affected by this modification or otherwise entitled to review by

law. Pursuant to IC 13-15-7-3, the permit shall remain in force pending a decision on any appeal that has been timely requested under the provisions of IC 4-21.5 and IC 13-15-7.

If you have questions concerning this modification, please contact Richard Hamblin at 317/232-8696. Questions concerning appeal procedures should be directed to the Office of Environmental Adjudication at 317/232-8591.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Higginbotham", followed by a long horizontal line extending to the right.

Paul Higginbotham, Chief
Permits Branch
Office of Water Quality

Enclosure

cc: Sullivan County Health Department

STATE OF INDIANA
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
AMENDED AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251 et seq., the "Act"), and IDEM's permitting authority under IC 13-15,

SUNRISE COAL, LLC

is authorized to discharge from the coal mine located at 1466 East State Road 58, Carlisle, Indiana, to receiving waters named Berger Ditch and Busseron Creek in accordance with effluent limitations, monitoring requirements, and other conditions set forth in Parts I and II hereof.

The permit, as issued on February 10, 2012, is hereby amended as contained herein. The amended provisions shall become effective July 1, 2014. All terms and conditions of the permit not modified at this time remain in effect. Further, any existing condition or term affected by the amendments will remain in effect until the amended provisions become effective. This permit may be revoked for the nonpayment of applicable fees in accordance with IC 13-18-20.

This permit and the authorization to discharge, as amended, shall expire at midnight May 31, 2017. In order to receive authorization to discharge beyond the date of expiration, the permittee shall submit such information and forms as are required by the Indiana Department of Environmental Management no later than 180 days prior to the date of expiration.

Signed on July 3, 2014 for the Indiana
Department of Environmental Management.



Paul Higginbotham, Chief
Permits Branch
Office of Water Quality

PART I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. The permittee is authorized to discharge from the outfall listed below in accordance with the terms and conditions of this permit. The permittee is authorized to discharge from Outfall 001. The discharge is limited to mine water. Samples taken in compliance with the monitoring requirements below shall be taken at a point representative of the discharge but prior to entry into Busseron Creek. Such discharge shall be limited and monitored by the permittee as specified below:

DISCHARGE LIMITATIONS[1][2]

<u>Parameter</u>	<u>Quantity or Loading</u>		<u>Units</u>	<u>Table 1</u> <u>Quality or Concentration</u>		<u>Units</u>	<u>Monitoring</u> <u>Measurement</u> <u>Frequency</u>	<u>Requirements</u> <u>Sample</u> <u>Type</u>
	<u>Monthly</u>	<u>Daily</u>		<u>Monthly</u>	<u>Daily</u>			
	<u>Average</u>	<u>Maximum</u>		<u>Average</u>	<u>Maximum</u>			
Flow	Report	Report	MGD	-----	-----	-----	1 X Weekly	24 Hour Total
Augment Water								
Flow	Report	Report	MGD	-----	-----	-----	1 X Weekly[3]	24-Hour Total
TSS	-----	-----	-----	35.0	75.0	mg/l	1 X Monthly	Composite[4][5]
Copper[6]	-----	-----	-----	Report	Report	mg/l	1 X Monthly	Composite[4][5]
Iron[6]	-----	-----	-----	3.0	6.0	mg/l	1 X Monthly	Composite[4][5]
Chloride	-----	-----	-----	560	930	mg/l	1 X Monthly	Composite[4]
Sulfate	-----	-----	-----	550	910	mg/l	1 X Monthly	Composite[4]
Manganese[6]	-----	-----	-----	2.0	4.0	mg/l	1 X Monthly	Composite[4][5]
Nickel[6][7]	-----	-----	-----	Report	Report	mg/l	1 X Monthly	Composite[4][5]
Zinc[6][7]	-----	-----	-----	Report	Report	mg/l	1 X Monthly	Composite[4][5]
Aluminum[6][7]	-----	-----	-----	Report	Report	mg/l	1 X Monthly	Composite[4][5]

<u>Parameter</u>	<u>Table 2</u> <u>Quality or Concentration</u>		<u>Units</u>	<u>Monitoring</u> <u>Measurement</u> <u>Frequency</u>	<u>Requirements</u> <u>Sample</u> <u>Type</u>
	<u>Daily</u>	<u>Daily</u>			
	<u>Minimum</u>	<u>Maximum</u>			
pH	6.0	9.0	s.u.	1 X Weekly	Grab

- [1] In the event that changes are to be made in the use of water treatment additives including dosage rates contributing to Outfall 001, the permittee shall notify the Indiana Department of Environmental Management as required in Part II.C.1 of this permit. The use of any new or changed water treatment additives or dosage rates shall not cause the discharge from any permitted outfall to exhibit chronic or acute toxicity. Acute and chronic aquatic toxicity information must be provided with any notification regarding any new or changed water treatment additives or dosage rates.

- [2] See Part I.B. of the permit for the Narrative Water Quality Standards.
- [3] The volume of water used to augment the discharge flow shall be recorded on the same day of the week as the total discharge flow.
- [4] The composite sample shall consist of at least four (4) grab samples. These grab samples shall be equally spaced during the entire period of the discharge.
- [5] The above noted parameters shall be analyzed and values reported prior to mixing with other wastestreams for purposes of flow augmentation.
- [6] The permittee shall measure and report the identified metals as total recoverable metals.
- [7] The above noted parameter(s) shall be monitored to determine whether or not it is present in quantities that have the reasonable potential to exceed the calculated water quality based effluent limits. At the end of a twelve month sampling period, the permittee may request, in writing, a review of these requirements. Upon review by IDEM, the permit may be modified, after public notice and opportunity for hearing, to delete the monitoring requirements, reduce monitoring frequency, or to include appropriate effluent limitations.

2. The permittee is authorized to discharge from the outfall listed below in accordance with the terms and conditions of this permit. The permittee is authorized to discharge from Outfall 005. The discharge is limited to mine water. Samples taken in compliance with the monitoring requirements below shall be taken at a point representative of the discharge but prior to entry into Berger Ditch. Such discharge shall be limited and monitored by the permittee as specified below:

DISCHARGE LIMITATIONS[1][2]

			Table 1					
<u>Parameter</u>	<u>Quantity or Loading</u>		<u>Quality or Concentration</u>		<u>Units</u>	<u>Monitoring Measurement Frequency</u>	<u>Requirements Sample Type</u>	
	<u>Monthly Average</u>	<u>Daily Maximum</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>				
Flow	Report	Report	MGD	-----	-----	1 X Weekly	24 Hour Total	
Augment Water Flow	Report	Report	MGD	-----	-----	1 X Weekly[3]	24-Hour Total	
TSS	-----	-----	-----	35.0	75.0	mg/l	1 X Monthly	Composite[4][5]
Copper[6]	-----	-----	-----	Report	Report	mg/l	1 X Monthly	Composite[4][5]
Iron[6]	-----	-----	-----	3.0	6.0	mg/l	1 X Monthly	Composite[4][5]
Chloride	-----	-----	-----	360	590	mg/l	1 X Monthly	Composite[4]
Sulfate	-----	-----	-----	350	570	mg/l	1 X Monthly	Composite[4]
Manganese[6]	-----	-----	-----	2.0	4.0	mg/l	1 X Monthly	Composite[4][5]
Nickel[6][7]	-----	-----	-----	Report	Report	mg/l	1 X Monthly	Composite[4][5]
Zinc[6][7]	-----	-----	-----	Report	Report	mg/l	1 X Monthly	Composite[4][5]
Aluminum[6][7]	-----	-----	-----	Report	Report	mg/l	1 X Monthly	Composite[4][5]

			Table 2			
<u>Parameter</u>	<u>Quality or Concentration</u>		<u>Units</u>	<u>Monitoring Measurement Frequency</u>	<u>Requirements Sample Type</u>	
	<u>Daily Minimum</u>	<u>Daily Maximum</u>				
pH	6.0	9.0	s.u.	1 X Weekly	Grab	

- [1] In the event that changes are to be made in the use of water treatment additives including dosage rates contributing to Outfall 005, the permittee shall notify the Indiana Department of Environmental Management as required in Part II.C.1 of this permit. The use of any new or changed water treatment additives or dosage rates shall not cause the discharge from any permitted outfall to exhibit chronic or acute toxicity. Acute and chronic aquatic toxicity information must be provided with any notification regarding any new or changed water treatment additives or dosage rates.
- [2] See Part I.B. of the permit for the Narrative Water Quality Standards.
- [3] The volume of water used to augment the discharge flow shall be recorded on the same day of the week as the total discharge flow.

- [4] The composite sample shall consist of at least four (4) grab samples. These grab samples shall be equally spaced during the entire period of the discharge.
- [5] The above noted parameters shall be analyzed and values reported prior to mixing with other wastestreams for purposes of flow augmentation.
- [6] The permittee shall measure and report the identified metals as total recoverable metals.
- [7] The above noted parameter(s) shall be monitored to determine whether or not it is present in quantities that have the reasonable potential to exceed the calculated water quality based effluent limits. At the end of a twelve month sampling period, the permittee may request, in writing, a review of these requirements. Upon review by IDEM, the permit may be modified, after public notice and opportunity for hearing, to delete the monitoring requirements, reduce monitoring frequency, or to include appropriate effluent limitations.

B. NARRATIVE WATER QUALITY STANDARDS

At all times the discharge from any and all point sources specified within this permit shall not cause receiving waters:

1. including the mixing zone, to contain substances, materials, floating debris, oil, scum, or other pollutants:
 - a. that will settle to form putrescent or otherwise objectionable deposits;
 - b. that are in amounts sufficient to be unsightly or deleterious;
 - c. that produce color, visible oil sheen, odor, or other conditions in such degree as to create a nuisance;
 - d. which are in amounts sufficient to be acutely toxic to , or to otherwise severely injure or kill aquatic life, other animals, plants, or humans;
 - e. which are in concentrations or combinations that will cause or contribute to the growth of aquatic plants or algae to such a degree as to create a nuisance, be unsightly, or otherwise impair the designated uses.
2. outside the mixing zone, to contain substances in concentrations which on the basis of available scientific data are believed to be sufficient to injure, be chronically toxic to, or be carcinogenic, mutagenic, or teratogenic to humans, animals, aquatic life, or plants.

C. MONITORING AND REPORTING

1. Representative Sampling

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge flow and shall be taken at times which reflect the full range and concentration of effluent parameters normally expected to be present. Samples shall not be taken at times to avoid showing elevated levels of any parameters.

2. Monthly Reporting

The permittee shall submit monitoring reports to the Indiana Department of Environmental Management containing results obtained during the previous month and shall be postmarked no later than the 28th day of the

month following each completed monitoring period. The first report shall be submitted by the 28th day of the month following the month in which the permit becomes effective. These reports shall include, but not necessarily be limited to, the Discharge Monitoring Report (DMR) and the Monthly Monitoring Report (MMR). All reports shall be mailed to the IDEM, Office of Water Quality – Mail Code 65-42, *Data & Information Services Section*, 100 North Senate Ave., Indianapolis, Indiana 46204-2251 and to the IDEM, Office of Water Quality – Mail Code 65-42, *Compliance Section*, 100 North Senate Ave., Indianapolis, Indiana 46204-2251. In lieu of mailing paper reports the permittee may submit its reports to IDEM electronically by using the NetDMR application, upon registration and approval receipt. Electronically submitted reports (using NetDMR) have the same deadline as mailed reports. The Regional Administrator may request the permittee to submit monitoring reports to the Environmental Protection Agency if it is deemed necessary to assure compliance with the permit.

- a. Calculations that require averaging of measurements of daily values (both concentrations and mass) shall use an arithmetic mean, except the monthly average for E. Coli shall be calculated as a geometric mean.
- b. Daily effluent values (both mass and concentration) that are less than the LOQ that are used to determine the monthly average effluent level shall be accommodated in calculation of the average using statistical methods that have been approved by the Commissioner.
- c. Effluent concentrations less than the LOD shall be reported on the Discharge Monitoring Report (DMR) forms as < (less than) the value of the LOD. For example, if a substance is not detected at a concentration of 0.1 µg/l, report the value as <0.1 µg/l.
- d. Effluent concentrations greater than or equal to the LOD and less than the LOQ that are reported on a DMR shall be reported as the actual value and annotated on the DMR to indicate that the value is not quantifiable.
- e. Mass discharge values which are calculated from concentrations reported as less than the value of the limit of detection shall be reported as less than the corresponding mass discharge value.
- f. Mass discharge values that are calculated from effluent concentrations greater than the limit of detection shall be reported as the calculated value.

3. Definitions

- a. “Monthly Average” means the total mass or flow-weighted concentration of all daily discharges during a calendar month on which daily discharges are sampled or measured, divided by the number of daily discharges sampled and/or measured during such calendar month.

The monthly average discharge limitation is the highest allowable average monthly discharge for any calendar month.

- b. “Daily Discharge” means the total mass of a pollutant discharged during the calendar day or, in the case of a pollutant limited in terms other than mass pursuant to 327 IAC 5-2-11(e), the average concentration or other measurement of the pollutant specified over the calendar day or any twenty-four hour period that reasonably represents the calendar day for the purposes of sampling.
- c. “Daily Maximum” means the maximum allowable daily discharge for any calendar day.
- d. A “24-hour composite sample” means a sample consisting of at least 3 individual flow-proportioned samples of wastewater, taken by the grab sample method or by an automatic sampler, which are taken at approximately equally spaced time intervals for the duration of the discharge within a 24-hour period and which are combined prior to analysis. A flow-proportioned composite sample may be obtained by:
- (1) recording the discharge flow rate at the time each individual sample is taken,
 - (2) adding together the discharge flow rates recorded from each individual sampling time to formulate the “total flow” value,
 - (3) the discharge flow rate of each individual sampling time is divided by the total flow value to determine its percentage of the total flow value,
 - (4) then multiply the volume of the total composite sample by each individual sample’s percentage to determine the volume of that individual sample which will be included in the total composite sample.

- e. “Concentration” means the weight of any given material present in a unit volume of liquid. Unless otherwise indicated in this permit, concentration values shall be expressed in milligrams per liter (mg/l).
- f. The “Regional Administrator” is defined as the Region V Administrator, U.S. EPA, located at 77 West Jackson Boulevard, Chicago, Illinois 60604.
- g. The “Commissioner” is defined as the Commissioner of the Indiana Department of Environmental Management, which is located at the following address: 100 North Senate Avenue, Indianapolis, Indiana 46204.
- h. “Limit of Detection” or “LOD” means the minimum concentration of a substance that can be measured and reported with ninety-nine percent (99%) confidence that the analyte concentration is greater than zero (0) for a particular analytical method and sample matrix.
- i. “Limit of Quantitation” or “LOQ” means a measurement of the concentration of a contaminant obtained by using a specified laboratory procedure calibrated at a specified concentration above the method detection level. It is considered the lowest concentration at which a particular contaminant can be quantitatively measured using a specified laboratory procedure for monitoring of the contaminant. This term is also sometimes called limit of quantification or quantification level.
- j. “Method Detection Level” or “MDL” means the minimum concentration of an analyte (substance) that can be measured and reported with a ninety-nine percent (99%) confidence that the analyte concentration is greater than zero (0) as determined by procedure set forth in 40 CFR 136, Appendix B. The method detection level or MDL is equivalent to the LOD.
- k. “Grab Sample” means a sample which is taken from a wastestream on a one-time basis without consideration of the flow rate of the wastestream and without considerations of time.

4. Test Procedures

The analytical and sampling methods used shall conform to the current version of 40 CFR 136. Multiple editions of Standard Methods for the Examination of Water and Wastewater are currently approved for most

methods, however, 40 CFR Part 136 should be checked to ascertain if a particular method is approved for a particular analyte. The approved methods may be included in the texts listed below. However, different but equivalent methods are allowable if they receive the prior written approval of the Commissioner and the U.S. Environmental Protection Agency.

- a. Standard Methods for the Examination of Water and Wastewater 18th, 19th, or 20th Editions, 1992, 1995, or 1998, American Public Health Association, Washington, D.C. 20005.
- b. A.S.T.M. Standards, Parts 23, Water; Atmosphere Analysis 1972 American Society for Testing and Materials, Philadelphia, PA 19103.
- c. Methods for Chemical Analysis of Water and Wastes June 1974, Revised, March 1983, Environmental Protection Agency, Water Quality Office, Analytical Quality Control Laboratory, 1014 Broadway, Cincinnati, OH 45202.

5. Recording of Results

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record and maintain records of all monitoring information and monitoring activities under this permit, including the following information:

- a. The exact place, date, and time of sampling;
- b. The person(s) who performed the sampling or measurements;
- c. The dates the analyses were performed;
- d. The person(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of all required analyses and measurements.

6. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of this monitoring shall be included in the calculation and reporting of the values required in the monthly Discharge Monitoring Report (DMR). Such increased frequency

shall also be indicated. Other monitoring data not specifically required in this permit (such as internal process or internal waste stream data) which is collected by or for the permittee need not be submitted unless requested by the Commissioner.

7. Records Retention

All records and information resulting from the monitoring activities required by this permit, including all records of analyses performed and calibration and maintenance of instrumentation and recording from continuous monitoring instrumentation, shall be retained for a minimum of three (3) years. In cases where the original records are kept at another location, a copy of all such records shall be kept at the permitted facility. The three years shall be extended:

- a. automatically during the course of any unresolved litigation regarding the discharge of pollutants by the permittee or regarding promulgated effluent guidelines applicable to the permittee; or
- b. as requested by the Regional Administrator or the Indiana Department of Environmental Management.

D. REOPENING CLAUSES

This permit may be modified, or alternately, revoked and reissued, after public notice and opportunity for hearing:

1. to comply with any applicable effluent limitation or standard issued or approved under 301(b)(2)(C),(D) and (E), 304 (b)(2), and 307(a)(2) of the Clean Water Act, if the effluent limitation or standard so issued or approved:
 - a. contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
 - b. controls any pollutant not limited in the permit.
2. to incorporate any of the reopening clause provisions cited at 327 IAC 5-2-16.

PART II

STANDARD CONDITIONS FOR NPDES PERMITS

A. GENERAL CONDITIONS

1. Duty to Comply

The permittee shall comply with all terms and conditions of this permit in accordance with 327 IAC 5-2-8(1) and all other requirements of 327 IAC 5-2-8. Any permit noncompliance constitutes a violation of the Clean Water Act and IC 13 and is grounds for enforcement action or permit termination, revocation and reissuance, modification, or denial of a permit renewal application.

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

2. Duty to Mitigate

In accordance with 327 IAC 5-2-8(3), the permittee shall take all reasonable steps to minimize or correct any adverse impact to the environment resulting from noncompliance with this permit. During periods of noncompliance, the permittee shall conduct such accelerated or additional monitoring for the affected parameters, as appropriate or as requested by IDEM, to determine the nature and impact of the noncompliance.

3. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must obtain and submit an application for renewal of this permit in accordance with 327 IAC 5-2-8(2). It is the permittee's responsibility to obtain and submit the application. In accordance with 327 IAC 5-2-3(c), the owner of the facility or operation from which a discharge of pollutants occurs is responsible for applying for and obtaining the NPDES permit, except where the facility or operation is operated by a person other than an employee of the owner in which case it is the operator's responsibility to apply for and obtain the permit. Pursuant to 327 IAC 5-3-2(a)(2), the application must be submitted at least 180 days before the expiration date of this permit. This deadline may be extended if:

- a. permission is requested in writing before such deadline;
- b. IDEM grants permission to submit the application after the deadline; and

- c. the application is received no later than the permit expiration date.

4. Permit Transfers

In accordance with 327 IAC 5-2-8(4)(D), this permit is nontransferable to any person except in accordance with 327 IAC 5-2-6(c). This permit may be transferred to another person by the permittee, without modification or revocation and reissuance being required under 327 IAC 5-2-16(c)(1) or 16(e)(4), if the following occurs:

- a. the current permittee notified the Commissioner at least thirty (30) days in advance of the proposed transfer date;
- b. a written agreement containing a specific date of transfer of permit responsibility and coverage between the current permittee and the transferee (including acknowledgment that the existing permittee is liable for violations up to that date, and the transferee is liable for violations from that date on) is submitted to the Commissioner;
- c. the transferee certifies in writing to the Commissioner their intent to operate the facility without making such material and substantial alterations or additions to the facility as would significantly change the nature or quantities of pollutants discharged and thus constitute cause for permit modification under 327 IAC 5-2-16(d). However, the Commissioner may allow a temporary transfer of the permit without permit modification for good cause, e.g., to enable the transferee to purge and empty the facility's treatment system prior to making alterations, despite the transferee's intent to make such material and substantial alterations or additions to the facility; and
- d. the Commissioner, within thirty (30) days, does not notify the current permittee and the transferee of the intent to modify, revoke and reissue, or terminate the permit and to require that a new application be filed rather than agreeing to the transfer of the permit.

The Commissioner may require modification or revocation and reissuance of the permit to identify the new permittee and incorporate such other requirements as may be necessary under the Clean Water Act or state law.

5. Permit Actions

In accordance with 327 IAC 5-2-16(b) and 327 IAC 5-2-8(4), this permit may be modified, revoked and reissued, or terminated for cause, including, but not limited to, the following:

- a. Violation of any terms or conditions of this permit;

- b. Failure of the permittee to disclose fully all relevant facts or misrepresentation of any relevant facts in the application, or during the permit issuance process; or
- c. A change in any condition that requires either a temporary or a permanent reduction or elimination of any discharge controlled by the permit, e.g., plant closure, termination of discharge by connection to a POTW, a change in state law that requires the reduction or elimination of the discharge, or information indicating that the permitted discharge poses a substantial threat to human health or welfare.

Filing of either of the following items does not stay or suspend any permit condition: (1) a request by the permittee for a permit modification, revocation and reissuance, or termination, or (2) submittal of information specified in Part II.A.3 of the permit including planned changes or anticipated noncompliance.

The permittee shall submit any information that the permittee knows or has reason to believe would constitute cause for modification or revocation and reissuance of the permit at the earliest time such information becomes available, such as plans for physical alterations or additions to the permitted facility that:

- 1. could significantly change the nature of, or increase the quantity of pollutants discharged; or
- 3. the commissioner may request to evaluate whether such cause exists.

In accordance with 327 IAC 5-1-3(a)(5), the permittee must also provide any information reasonably requested by the Commissioner.

6. Property Rights

Pursuant to 327 IAC 5-2-8(6) and 327 IAC 5-2-5(b), the issuance of this permit does not convey any property rights of any sort or any exclusive privileges, nor does it authorize any injury to persons or private property or invasion of other private rights, any infringement of federal, state, or local laws or regulations. The issuance of the permit also does not preempt any duty to obtain any other state, or local assent required by law for the discharge or for the construction or operation of the facility from which a discharge is made.

7. Severability

In accordance with 327 IAC 1-1-3, the provisions of this permit are severable and, if any provision of this permit or the application of any provision of this permit to any person or circumstance is held invalid, the invalidity shall not affect any other

provisions or applications of the permit which can be given effect without the invalid provision or application.

8. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject to under Section 311 of the Clean Water Act.

9. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Clean Water Act or state law.

10. Penalties for Violation of Permit Conditions

Pursuant to IC 13-30-4, a person who violates any provision of this permit, the water pollution control laws; environmental management laws; or a rule or standard adopted by the Environmental Rules Board is liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) per day of any violation.

Pursuant to IC 13-30-5, a person who obstructs, delays, resists, prevents, or interferes with (1) the department; or (2) the department's personnel or designated agent in the performance of an inspection or investigation performed under IC 13-14-2-2 commits a class C infraction.

Pursuant to IC 13-30-10-1.5(k), a person who willfully or recklessly violates any NPDES permit condition or filing requirement, any applicable standards or limitations of IC 13-18-3-2.4, IC 13-18-4-5, IC 13-18-8, IC 13-18-9, IC 13-18-10, IC 13-18-12, IC 13-18-14, IC 13-18-15, or IC 13-18-16, or who knowingly makes any false material statement, representation, or certification in any NPDES form, notice, or report commits a Class C misdemeanor.

Pursuant to IC 13-30-10-1.5(l), an offense under IC 13-30-10-1.5(k) is a Class D felony if the offense results in damage to the environment that renders the environment unfit for human or vertebrate animal life. An offense under IC 13-30-10-1.5(k) is a Class C felony if the offense results in the death of another person.

11. Penalties for Tampering or Falsification

In accordance with 327 IAC 5-2-8(9), the permittee shall comply with monitoring, recording, and reporting requirements of this permit. The Clean

Water Act, as well as IC 13-30-10-1, provides that any person who knowingly or intentionally (a) destroys, alters, conceals, or falsely certifies a record that is required to be maintained under the terms of a permit issued by the department; and may be used to determine the status of compliance, (b) renders inaccurate or inoperative a recording device or a monitoring device required to be maintained by a permit issued by the department, or (c) falsifies testing or monitoring data required by a permit issued by the department commits a Class B misdemeanor.

12. Toxic Pollutants

If any applicable effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the Clean Water Act for a toxic pollutant injurious to human health, and that standard or prohibition is more stringent than any limitation for such pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition in accordance with 327 IAC 5-2-8(5). Effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants injurious to human health are effective and must be complied with, if applicable to the permittee, within the time provided in the implementing regulations, even absent permit modification.

13. Wastewater treatment plant and certified operators

The permittee shall have the wastewater treatment facilities under the responsible charge of an operator certified by the Commissioner in a classification corresponding to the classification of the wastewater treatment plant as required by IC 13-18-11-11 and 327 IAC 5-22. In order to operate a wastewater treatment plant the operator shall have qualifications as established in 327 IAC 5-22-7.

327 IAC 5-22-10.5(a) provides that a certified operator may be designated as being in responsible charge of more than one (1) wastewater treatment plant, if it can be shown that he will give adequate supervision to all units involved. Adequate supervision means that sufficient time is spent at the plant on a regular basis to assure that the certified operator is knowledgeable of the actual operations and that test reports and results are representative of the actual operations conditions. In accordance with 327 IAC 5-22-3(11), "responsible charge operator" means the person responsible for the overall daily operation, supervision, or management of a wastewater facility.

Pursuant to 327 IAC 5-22-10(4), the permittee shall notify IDEM when there is a change of the person serving as the certified operator in responsible charge of the wastewater treatment facility. The notification shall be made no later than thirty (30) days after a change in the operator.

14. Construction Permit

In accordance with IC 13-14-8-11.6, a discharger is not required to obtain a state permit for the modification or construction of a water pollution treatment or control facility if the discharger has an effective NPDES permit.

If the discharger modifies their existing water pollution treatment or control facility or constructs a new water pollution treatment or control facility for the treatment or control of any new influent pollutant or increased levels of any existing pollutant, then, within thirty (30) days after commencement of operation, the discharger shall file with the Department of Environment Management a notice of installation for the additional pollutant control equipment and a design summary of any modifications.

The notice and design summary shall be sent to the Office of Water Quality - Mail Code 65-42, Industrial NPDES Permits Section, 100 North Senate Avenue, Indianapolis, IN 46204-2251.

15. Inspection and Entry

In accordance with 327 IAC 5-2-8(7), the permittee shall allow the Commissioner, or an authorized representative, (including an authorized contractor acting as a representative of the Commissioner) upon the presentation of credentials and other documents as may be required by law, to:

- a. Enter upon the permittee's premises where a point source, regulated facility, or activity is located or conducted, or where records must be kept pursuant to the conditions of this permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the terms and conditions of this permit;
- c. Inspect at reasonable times any facilities, equipment or methods (including monitoring and control equipment), practices, or operations regulated or required pursuant to this permit; and
- d. Sample or monitor at reasonable times, any discharge of pollutants or internal wastestreams for the purposes of evaluating compliance with the permit or as otherwise authorized.

16. New or Increased Discharge of Pollutants

This permit prohibits the permittee from undertaking any action that would result in a new or increased discharge of a bioaccumulative chemical of concern (BCC) or a new or increased permit limit for a regulated pollutant that is not a BCC

unless one of the following is completed prior to the commencement of the action:

- a. Information is submitted to the Commissioner demonstrating that the proposed new or increased discharges will not cause a significant lowering of water quality as defined under 327 IAC 2-1.3-2(50). Upon review of this information, the Commissioner may request additional information or may determine that the proposed increase is a significant lowering of water quality and require the submittal of an antidegradation demonstration.
- b. An antidegradation demonstration is submitted to and approved by the Commissioner in accordance with 327 IAC 2-1.3-5 and 327 IAC 2-1.3-6.

B. MANAGEMENT REQUIREMENTS

1. Proper Operation and Maintenance

The permittee shall at all times maintain in good working order and efficiently operate all facilities and systems (and related appurtenances) for the collection and treatment which are installed or used by the permittee and which are necessary for achieving compliance with the terms and conditions of this permit in accordance with 327 IAC 5-2-8(8).

Neither 327 IAC 5-2-8(8), nor this provision, shall be construed to require the operation of installed treatment facilities that are unnecessary for achieving compliance with the terms and conditions of the permit.

2. Bypass of Treatment Facilities

Pursuant to 327 IAC 5-2-8(11):

- a. Terms as defined in 327 IAC 5-2-8(11)(A):
 - (1) “Bypass” means the intentional diversion of a waste stream from any portion of a treatment facility.
 - (2) “Severe property damage” means substantial physical damage to property, damage to the treatment facilities which would cause them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a

bypass. Severe property damage does not mean economic loss caused by delays in production.

- b. The permittee may allow a bypass to occur that does not cause a violation of the effluent limitations in the permit, but only if it is also for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Part II.B.2.c., e, and f of this permit.
- c. Bypasses, as defined in (a) above, are prohibited, and the Commissioner may take enforcement action against a permittee for bypass, unless the following occur:
 - (1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage, as defined above;
 - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and
 - (3) The permittee submitted notices as required under Part II.B.2.e; or
 - (4) The condition under Part II.B.2.b above is met.
- d. Bypasses that result in death or acute injury or illness to animals or humans must be reported in accordance with the "Spill Response and Reporting Requirements" in 327 IAC 2-6.1, including calling 888/233-7745 as soon as possible, but within two (2) hours of discovery. However, under 327 IAC 2-6.1-3(1), when the constituents of the bypass are regulated by this permit, and death or acute injury or illness to animals or humans does not occur, the reporting requirements of 327 IAC 2-6.1 do not apply.
- e. The permittee must provide the Commissioner with the following notice:
 - (1) If the permittee knows or should have known in advance of the need for a bypass (anticipated bypass), it shall submit

prior written notice. If possible, such notice shall be provided at least ten (10) days before the date of the bypass for approval by the Commissioner.

- (2) The permittee shall orally report an unanticipated bypass that exceeds any effluent limitations in the permit within 24 hours of becoming aware of the bypass noncompliance. The permittee must also provide a written report within five (5) days of the time the permittee becomes aware of the bypass event. The written report must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times; if the cause of noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent recurrence of the bypass event. If a complete fax or email submittal is provided within 24 hours of the time that the permittee became aware of the unanticipated bypass event, then that report will satisfy both the oral and written reporting requirement. Emails should be sent to wwreports@idem.in.gov.

- f. The Commissioner may approve an anticipated bypass, after considering its adverse effects, if the Commissioner determines that it will meet the conditions listed above in Part II.B.2.c. The Commissioner may impose any conditions determined to be necessary to minimize any adverse effects.

3. Upset Conditions

Pursuant to 327 IAC 5-2-8(12):

- a. “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- b. An upset shall constitute an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of Paragraph c of this section, are met.

- c. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence, that:
 - (1) An upset occurred and the permittee has identified the specific cause(s) of the upset;
 - (2) The permitted facility was at the time being properly operated;
 - (3) The permittee complied with any remedial measures required under Part II.A.2; and
 - (4) The permittee submitted notice of the upset as required in the “Twenty-Four Hour Reporting Requirements,” Part II.C.3, or 327 IAC 2-6.1, whichever is applicable. However, under 327 IAC 2-6.1-3(1), when the constituents of the discharge are regulated by this permit, and death or acute injury or illness to animals or humans does not occur, the reporting requirements of 327 IAC 2-6.1 do not apply.
- d. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof pursuant to 40 CFR 122.41(n)(4).

4. Removed Substances

Solids, sludges, filter backwash, or other pollutants removed from or resulting from treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering waters of the State and to be in compliance with all Indiana statutes and regulations relative to liquid and/or solid waste disposal. The discharge of pollutants in treated wastewater is allowed in compliance with the applicable effluent limitations in Part I. of this permit.

C. REPORTING REQUIREMENTS

1. Planned Changes in Facility or Discharge

Pursuant to 327 IAC 5-2-8(10)(F), the permittee shall give notice to the Commissioner as soon as possible of any planned physical alterations or additions to the permitted facility. In this context, permitted facility refers

to a point source discharge, not a wastewater treatment facility. Notice is required only when either of the following applies:

- a. The alteration or addition may meet one of the criteria for determining whether the facility is a new source as defined in 327 IAC 5-1.5.
- b. The alteration or addition could significantly change the nature of, or increase the quantity of, pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations in Part I.A. nor to notification requirements in Part II.C.9. of this permit.

Following such notice, the permit may be modified to revise existing pollutant limitations and/or to specify and limit any pollutants not previously limited.

2. Monitoring Reports

Pursuant to 327 IAC 5-2-8(9) and 327 IAC 5-2-13 through 15, monitoring results shall be reported at the intervals and in the form specified in “Monthly Reporting”, Part I.C.2.

3. Twenty-Four Hour Reporting Requirements

Pursuant to 327 IAC 5-2-8(10)(C), the permittee shall orally report to the Commissioner information on the following types of noncompliance within 24 hours from the time permittee becomes aware of such noncompliance. If the noncompliance meets the requirements of item b (Part II.C.3.b) or 327 IAC 2-6.1, then the report shall be made within those prescribed time frames. However, under 327 IAC 2-6.1-3(1), when the constituents of the discharge that is in noncompliance are regulated by this permit, and death or acute injury or illness to animals or humans does not occur, the reporting requirements of 327 IAC 2-6.1 do not apply.

- a. Any unanticipated bypass which exceeds any effluent limitation in the permit;
- b. Any noncompliance which may pose a significant danger to human health or the environment. Reports under this item shall be made as soon as the permittee becomes aware of the noncomplying circumstances;
- c. Any upset (as defined in Part II.B.3 above) that causes an exceedance of any effluent limitation in the permit;

- d. Violation of a maximum daily discharge limitation for any of the following toxic pollutants: iron, manganese

The permittee can make the oral reports by calling (317)232-8670 during regular business hours or by calling (317) 233-7745 ((888)233-7745 toll free in Indiana) during non-business hours. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce and eliminate the noncompliance and prevent its recurrence. The Commissioner may waive the written report on a case-by-case basis if the oral report has been received within 24 hours. Alternatively the permittee may submit a "Bypass/Overflow Report" (State Form 48373) or a "Noncompliance 24-Hour Notification Report" (State Form 54215), whichever is appropriate, to IDEM at (317) 232-8637 or wwreports@idem.in.gov. If a complete fax or email submittal is sent within 24 hours of the time that the permittee became aware of the occurrence, then the fax report will satisfy both the oral and written reporting requirements.

4. Other Compliance/Noncompliance Reporting

Pursuant to 327 IAC 5-2-8(10)(D), the permittee shall report any instance of noncompliance not reported under the "Twenty-Four Hour Reporting Requirements" in Part II.C.3, or any compliance schedules at the time the pertinent Discharge Monitoring Report is submitted. The report shall contain the information specified in Part II.C.3;

The permittee shall also give advance notice to the Commissioner of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements; and

All reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

5. Other Information

Pursuant to 327 IAC 5-2-8(10)(E), where the permittee becomes aware of a failure to submit any relevant facts or submitted incorrect information in

a permit application or in any report, the permittee shall promptly submit such facts or corrected information to the Commissioner.

6. Signatory Requirements

Pursuant to 327 IAC 5-2-22 and 327 IAC 5-2-8(14):

- a. All reports required by the permit and other information requested by the Commissioner shall be signed and certified by a person described below or by a duly authorized representative of that person:
 - (1) For a corporation: by a responsible corporate officer defined as a president, secretary, treasurer, any vice-president of the corporation in charge of a principal business function, or any other person who performs similar policymaking or decision making functions for the corporation or the manager of one or more manufacturing, production or operating facilities employing more than two hundred fifty (250) persons or having the gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000) (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - (2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
 - (3) For a Federal, State, or local government body or any agency or political subdivision thereof: by either a principal executive officer or ranking elected official.
- b. A person is a duly authorized representative only if:
 - (1) The authorization is made in writing by a person described above.
 - (2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or a position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and

(3) The authorization is submitted to the Commissioner.

- c. Certification. Any person signing a document identified under Part II.C.6. shall make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

7. Availability of Reports

Except for data determined to be confidential under 327 IAC 12.1, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Indiana Department of Environmental Management and the Regional Administrator. As required by the Clean Water Act, permit applications, permits, and effluent data shall not be considered confidential.

8. Penalties for Falsification of Reports

IC 13-30 and 327 IAC 5-2-8(14) provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance, shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 180 days per violation, or by both.

9. Changes in Discharge of Toxic Substances

Pursuant to 40 CFR 122.42(a)(1), 40 CFR 122.42(a)(2), and 327 IAC 5-2-9, the permittee shall notify the Commissioner as soon as it knows or has reason to believe:

- a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any pollutant identified as toxic pursuant to Section 307(a) of the Clean Water

Act which is not limited in the permit, if that discharge will exceed the highest of the following “notification levels.”

- (1) One hundred micrograms per liter (100µg/l);
 - (2) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500µg/l) for 2,4-dinitrophenol and 2-methyl-4,6-dinitrophenol; and one milligram per liter (1mg/l) for antimony;
 - (3) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or
 - (4) A notification level established by the Commissioner on a case-by-case basis, either at his own initiative or upon a petition by the permittee. This notification level may exceed the level specified in subdivisions (1), (2), or (3) but may not exceed the level which can be achieved by the technology-based treatment requirements applicable to the permittee under the CWA (see 327 IAC 5-5-2).
- b. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following “notification levels”:
- (1) Five hundred micrograms per liter (500 µg/l);
 - (2) One milligram per liter (1 mg/l) for antimony;
 - (3) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Sec. 122.21(g)(7).
 - (4) A notification level established by the Commissioner on a case-by-case basis, either at his own initiative or upon a petition by the permittee. This notification level may exceed the level specified in subdivisions (1), (2), or (3) but may not exceed the level which can be achieved by the technology-based treatment requirements applicable to the permittee under the CWA (see 327 IAC 5-5-2).

- c. That it has begun or expects to begin to use or manufacture, as an intermediate or final product or byproduct, any toxic pollutant which was not reported in the permit application under 40 CFR 122.21(g)(9).

STATE OF INDIANA
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
PUBLIC NOTICE NO: 2014 – 7B – F
DATE OF NOTICE: JULY 3, 2014

The Office of Water Quality issues the following NPDES FINAL PERMIT.

MINOR - MODIFICATION

SUNRISE COAL LLC, Permit No. IN0062791, SULLIVAN COUNTY, 1466 East SR 58, Carlisle, IN. This industrial permit modification adds Outfall #005. Permit Manager: Richard Hamblin, 317/232-8696, Rhamblin@idem.in.gov.

APPEAL PROCEDURES FOR FINAL PERMITS

The Final Permits are available for review & copies at IDEM, Indiana Government Center, North Bldg, 100 N Senate Ave, Indianapolis, IN, Rm 1203, Office of Water Quality/NPDES Permit Section, from 9 – 4, M - F (copies 10¢ per page). Each Final Permit is available at the respective, local County Health Department. **Please tell others you think would be interested in this matter.** See these sites for your rights & responsibilities: Public Participation: <http://www.in.gov/idem/5474.htm>; Citizen Guide: <http://www.in.gov/idem/5903.htm>.

Appeal Procedure: Any person affected by the issuance of the Final Permit may appeal by filing a Petition for Administrative Review with the Office of Environmental Adjudication **within** eighteen (18) days of the date of this Public Notice. Any appeal request must be filed in accordance with IC 4-21.5-3-7 and must include facts demonstrating that the party requesting appeal is the applicant; a person aggrieved or adversely affected or is otherwise entitled to review by law.

Timely filing: The Petition for Administrative Review must be received by the Office of Environmental Adjudication (OEA) **within** 18 days of the date of this Public Notice; either by U.S. Mail postmark or by private carrier with dated receipt. This Petition for Administrative Review represents a request for an Adjudicatory Hearing, therefore must:

- state the name and address of the person making the request;
- identify the interest of the person making the request;
- identify any persons represented by the person making the request;
- state specifically the reasons for the request;
- state specifically the issues proposed for consideration at the hearing;
- identify the Final Permit Rule terms and conditions which, in the judgment of the person making the request, would be appropriate to satisfy the requirements of the law governing this NPDES Permit rule.

If the person filing the Petition for Administrative Review desires any part of the NPDES Final Permit Rule to be stayed pending the outcome of the appeal, a Petition for Stay must be included in the appeal request, identifying those parts to be stayed. Both Petitions shall be mailed or delivered to the address here:
Phone: 317/232-8591.

Environmental Law Judge
Office of Environmental Adjudication
IGC – North Building- Rm 501
100 N. Senate Avenue
Indianapolis IN 46204

Stay Time frame: If the Petition (s) is filed **within** eighteen (18) days of the mailing of this Public Notice, the effective date of any part of the permit, within the scope of the Petition for Stay is suspended for fifteen (15) days. The Permit will become effective again upon expiration of the fifteen (15) days, unless or until an Environmental Law Judge stays the permit action in whole or in part.

Hearing Notification: Pursuant to Indiana Code, when a written request is submitted, the OEA will provide the petitioner or any person wanting notification, with the Notice of pre-hearing conferences, preliminary hearings, hearing stays or orders disposing of the Petition for Administrative Review. Petition for Administrative Review must be filed in compliance with the procedures and time frames outlined above. Procedural or scheduling questions should be directed to the OEA at the phone listed above.



National Pollutant Discharge Elimination System

Briefing Memo for

Sunrise Coal, LLC

March 2014

Indiana Department of Environmental Management

100 North Senate Avenue
Indianapolis, Indiana 46204

(317) 232-8603

Toll Free (800) 451-6027

www.idem.IN.gov

Permittee:	Sunrise Coal, LLC 1183 East Canvasback Drive Terre Haute, IN 47802
Existing Permit Information:	Permit Number: IN0062791 Expiration Date: May 31, 2017
Source Contact:	Jacob Gennicks, Mine Engineer (812)389-2200 x. 113 or jgennicks@sunrisecoal.com
Source Location:	Carlisle Mine 1466 East State Road 58 Carlisle, IN 47838 Sullivan County
Receiving Stream:	Busseron Creek & Berger Ditch
Proposed Action:	Modify Permit: IN0062791 Date Application Received: 12/2/13
Source Category	NPDES Minor – Industrial
Permit Writer:	Richard Hamblin (317)232-8696 or rhamblin@idem.in.gov

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1.0 INTRODUCTION

The Indiana Department of Environmental Management (IDEM) received a National Pollutant Discharge Elimination System (NPDES) Permit application from the permittee on December 2, 2013.

The Federal Water Pollution Control Act of 1972 and subsequent amendments require a NPDES permit for the discharge of wastewater to surface waters. Furthermore, Indiana Code (IC) 13-15-1-2 requires a permit to control or limit the discharge of any contaminants into state waters or into a publicly owned treatment works. This proposed permit action by IDEM complies with both federal and state requirements.

In accordance with Title 40 of the Code of Federal Regulations (CFR) Sections 124.7 and 124.56, as well as Indiana Administrative Code (IAC) 327 Article 5, development of a Statement of Basis, or Briefing Memo, is required for NPDES permits. This document fulfills the requirements established in those regulations.

This Briefing Memo was prepared in order to document the factors considered in the development of NPDES Permit effluent limitations. The technical basis for the Briefing Memo may consist of evaluations of promulgated effluent guidelines, existing effluent quality, receiving water conditions, and wasteload allocations to meet Indiana Water Quality Standards. Decisions to award variances to Water Quality Standards or promulgated effluent guidelines are justified in the Briefing Memo where necessary.

2.0 FACILITY DESCRIPTION

2.1 General

Sunrise Coal's Carlisle Mine is classified under Standard Industrial Classification (SIC) Code 1222 –Bituminous Coal, Underground Mine. The Carlisle Mine is an underground mine with onsite coal wash plant, coal refuse disposal, and the necessary surface support facilities. This permit is for the discharge of drainage from the underground coal mine.

The permittee has requested a modification to the existing permit. The modification request is to add Outfall 005 to this NPDES permit. Outfall 005 is the same as Outfall 001 covered under General Permit ING040199.

2.2 Outfall Locations

OUTFALL 001	Latitude: 38° 57' 2"
	Longitude: 87° 26' 55"
OUTFALL 005	Latitude: 38° 56' 24"
	Longitude: 87° 24' 0"

2.3 Wastewater Treatment

The wastewater covered by this permit is the ground water being removed from the underground mine. Water from the underground mine is pumped to the surface and placed in a holding sump. Suspended solids will settle in the sump and any oil and grease will float to the top. Suitable selectively absorptive floating booms will be used, if necessary, to remove oil and grease from the holding sump.

Chemical addition for pH adjustment and clarification may be used, if necessary. The clarified mine water will be pumped from the sump to the water mixing tank. In the water mixing tank, low chloride content water from a freshwater supply well will be added to dilute the chloride content to an acceptable level. The use of flow augmentation is authorized in accordance with 327 IAC -5-5-2(d).

The existing permit covered the discharge from Outfall 001 as treated above. However, Outfall 001 was never constructed, nor has been to date. The same discharge treatment process described above was used, and discharged to Berger Ditch under General Permit ING040199. This modification is to include that discharge point (Outfall 005) into this Individual Permit, thus eliminating it from permit ING040199. In addition, the permittee would like to keep Outfall 001 in this permit so that the discharge to Busseron Creek may occur in the future as mining operations migrate towards the west.

A Flow Diagram for Outfall 001 and 005 has been included as Figures 1 and 2, respectively.

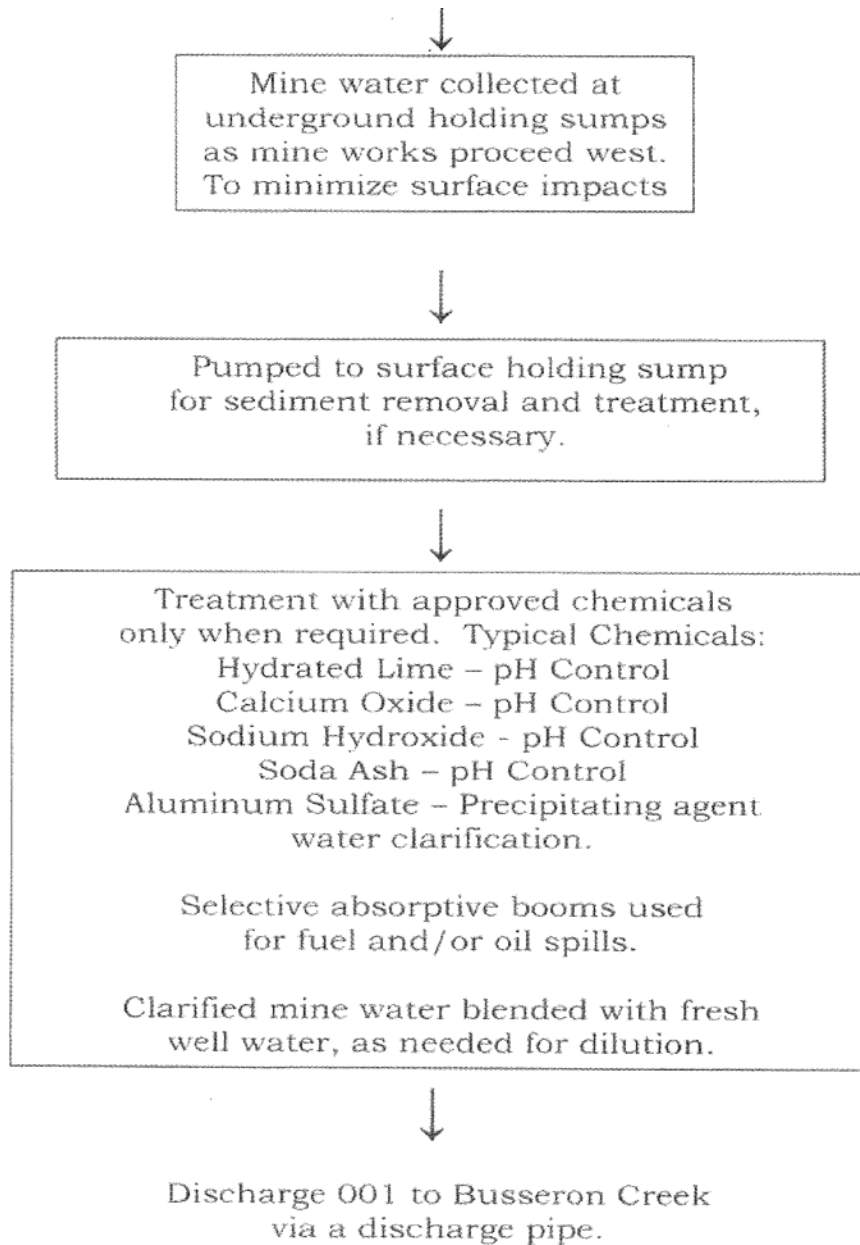
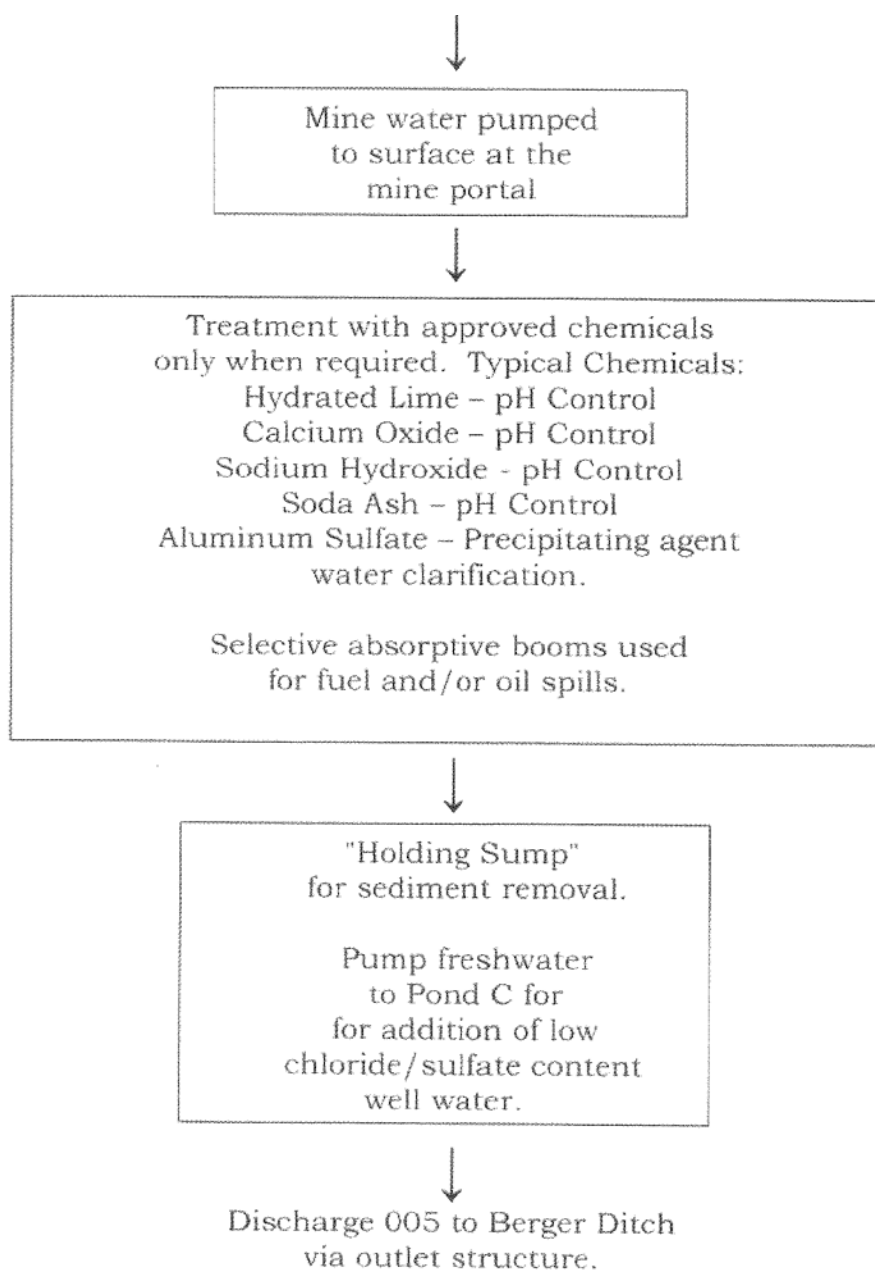
Figure 1: Outfall 001 Flow Diagram

Figure 2: Outfall 005 Flow Diagram

The permittee shall have the wastewater treatment facilities under the responsible charge of an operator certified by the Commissioner in a classification corresponding to the classification of the wastewater treatment plant as required by IC 13-18-11-11 and 327 IAC 5-22-5. In order to operate a wastewater treatment plant the operator shall have qualifications as established in 327 IAC 5-22-7.

2.4 Facility Storm Water

Surface runoff from the mine surface facilities are diverted to two (2) sedimentation basins covered under General Permit ING040199.

3.0 RECEIVING WATER

The receiving stream for Outfall 001 is Busseron Creek, a tributary to the Wabash River. The $Q_{7,10}$ low flow value of Busseron Creek is 0.7 cfs and shall be capable of supporting a well balanced warm water aquatic community and full body contact recreation in accordance with 327 IAC 2-1-3.

The receiving stream for Outfall 005 is Berger Ditch, a tributary to the Wabash River. The $Q_{7,10}$ low flow value of Berger Ditch is considered to be 0.0 cfs and shall be capable of supporting a well balanced warm water aquatic community and full body contact recreation in accordance with 327 IAC 2-1-3.

4.0 PERMIT LIMITATIONS

Two categories of effluent limitations exist for NPDES permits: Technology-Based Effluent Limits (TBELs) and; Water Quality-Based Effluent Limits (WQBELs).

TBELs are developed by applying the National Effluent Limitation Guidelines (ELGs) established by USEPA for specific industrial categories TBELs are the primary mechanism of control and enforcement of water pollution under the Clean Water Act (CWA). Technology based treatment requirements under section 301(b) of the CWA represent the minimum level of control/treatment using available technology that must be imposed in a section 402 permit [40 CFR 125.3(a)].

In the absence of ELGs, effluent limits can also be based upon Best Professional Judgment (BPJ). Accordingly, every individual member of a discharge class or category is required to operate their water pollution control technologies according to industry-wide standards and accepted engineering practices. This means that TBELs based upon a BPJ determination are applied at end-of-pipe and mixing zones are not allowed [40 CFR 125.3(a)]. Similarly, since the statutory deadlines best practicable technology (BPT), best available technology economically achievable (BAT) and best conventional control technology (BCT) have all passed; compliance schedules for these TBELs are also not allowed.

WQBELs are designed to be protective of the beneficial uses of the receiving water and are independent of the available treatment technology. The WQBELs for this facility are based on water quality criteria in 327 IAC 2-1-6 or under the procedures described in 327 IAC 2-1-8.2 through 327 IAC 2-1-8.7 and implementation procedures in 327 IAC 5. Limitations and/or monitoring are required for parameters identified by applications of the reasonable potential to exceed WQBEL under 327 IAC 5-2-11.1 (h)(1).

According to 40 CFR 122.44 and 327 IAC 5, NPDES permit limits are based on either TBELs, where applicable, BPJ, or WQBELs, whichever is most stringent. The decision to limit or monitor the parameters contained in this permit is based on information contained in the permittee's NPDES application. In addition, when performing a permit renewal, existing permit limits must be considered. These may be TBELs, WQBELs, or

limits based on BPJ. When renewing a permit, the antibacksliding provisions identified in 327 IAC 5-2-10(11) are taken into consideration.

5.1 Existing Permit Limits

Outfall 001

Parameter	Monthly Average	Daily Maximum	Units
Flow	Report	Report	MGD
TSS	35	70	mg/l
Copper	Report	Report	mg/l
Iron	3.0	6.0	mg/l
Chloride	739	1,720	mg/l
Manganese	2.0	4.0	mg/l
Nickel	Report	Report	mg/l
Zinc	Report	Report	mg/l
Aluminum	Report	Report	mg/l

Parameter	Daily Minimum	Daily Maximum	Units
pH	6.0	9.0	Std Units

5.2 Technology-Based Effluent Limits

The applicable technology based standards for the Carlisle underground coal mine are contained in 40 CFR 434 – Coal Mining Point Source Category. The portion of the mine that produces mine drainage wastewater is subject to ELGs set forth in Subpart C – Acid or Ferruginous Mine Drainage Subcategory, 40 CFR § 434.35, New Source Performance Standards. The portion of the mine that produces discharges due to precipitation are subject to ELGs set forth in Subpart F – Miscellaneous Provisions Subcategory, 40 CFR § 434.63, Effluent Limitations for Precipitations Events. The portion of the mine that may, after mining operations are ceased, produce discharges is subject to ELGs set forth in Subpart E – Post Mining Areas Subcategory, 40 CFR § 434.55, New Source Performance Standards.

The following table provides a summary of the applicable regulations and the associated production levels.

Subpart	Description
Subpart C – Acid or Ferruginous Mine Drainage Subcategory (40 CFR § 434.35)	Acid or ferruginous mine drainage from an active mining area resulting from the mining of coal of any rank including, but not limited to, bituminous, lignite, and anthracite.
Subpart E – Post Mining Areas Subcategory (40 CFR § 434.55)	Discharges from post-mining areas of all new source coal mines.
Subpart F – Miscellaneous Provisions Subcategory (40 CFR § 434.63)	Any discharge or increase in the volume of a discharge caused by precipitation within any 24 hour period.

The following tables contain the applicable ELGs from the federal regulations and the calculated permit limits.

Technology-Based Effluent Limits			
40 CFR 434.35	Monthly Average Limits		
	Iron (mg/l)	Manganese (mg/l)	TSS (mg/l)
	3.0	2.0	35.0
	Daily Maximum Limits		
	Iron (mg/l)	Manganese (mg/l)	TSS (mg/l)
	6.0	4.0	70.0

Technology-Based Effluent Limits	
40 CFR 434.63	40 CFR 434.63(f) states that, “Discharges of mine drainage from underground workings of underground mines which are not commingled with discharges eligible for alternate limitations set forth in this section shall in no event be eligible for the alternate limitations set forth in this section.” The discharge of precipitation runoff is covered under permit number ING040199 and is not commingled with the discharge of mine water covered under this NPDES permit. Therefore, alternate effluent limitations are not applicable.

Technology-Based Effluent Limits			
40 CFR 434.55(a)	The discharge of precipitation runoff in post-mining areas is covered under permit number ING040199. Therefore, technology-based limitations from this section are not included in this NPDES permit.		
40 CFR 434.55(b)(1)	Monthly Average Limits		
	Iron (mg/l)	Manganese (mg/l)	TSS (mg/l)
	3.0	2.0	35.0
	Daily Maximum Limits		
	Iron (mg/l)	Manganese (mg/l)	TSS (mg/l)
	6.0	4.0	70.0

Each categorical standard identified above includes limitations for pH between the range of 6.0-9.0 standard units.

The following technology-based limits are included in this NPDES permit for Outfalls 001 AND 005:

- Iron

Total iron limitations of 3.0 mg/l monthly average and 6.0 mg/l daily maximum are included for the discharge of mine drainage water pursuant to 40 CFR 434.35.

- Manganese

Total manganese limitations of 2.0 mg/l monthly average and 4.0 mg/l daily maximum are included for the discharge of mine drainage water pursuant to 40 CFR 434.35 and post-mining underground workings pursuant to 40 CFR 434.55(b)(1).

- Total Suspended Solids (TSS)

TSS limitations of 35.0 mg/l monthly average and 70.0 mg/l daily maximum are included for the discharge of mine drainage water pursuant to 40 CFR 434.35. The same limitations apply to post-mining mine drainage pursuant to 40 CFR 434.55(b)(1).

The above noted technology-based effluent limitations must be achieved prior to comingling with diluted wastestreams. Samples for iron, manganese, and TSS must be taken prior to use of flow augmentation.

5.3 Water Quality-Based Effluent Limits

The water quality-based effluent limits were calculated using the criteria contained in Table 1 of 327 IAC 2-1-6, Minimum Surface Water Quality Standards, and the procedure contained in 327 IAC 5-2-11.1, Establishment of Water Quality-Based Effluent Limitations for Dischargers not discharging to Waters within the Great Lakes System.

- Narrative Water Quality Based Limits

The narrative water quality contained under 327 IAC 2-1-6(a)(1) (A)-(E) have been included in this permit to ensure that the narrative water quality criteria are met.

- Numeric Water Quality Based Limits

The numeric water quality criteria and values contained in this permit have been calculated using the tables of water quality criteria under 327 IAC 2-1-6(b) & (c).

Outfalls 001 AND 005

- pH

Discharges to waters of the state are limited to the range of 6.0-9.0 s.u., in accordance with 327 IAC 2-1-6.

- Flow

The permittee's flow is to be monitored in accordance with 327 IAC 5-2-13(a)2.

- Chloride

Chlorides were previously identified in concentrations that demonstrated a Reasonable Potential to Exceed (RPE) Indiana Water Quality Standards. Therefore, WQBELs for chloride were established at Outfall 001.

However, the limitations were incorrectly calculated in the previous permit. The correct effluent limitations for chloride at Outfall 001 is 560 mg/l monthly average and 930 mg/l daily maximum.

In addition, the discharge via Outfall 005 to Berger Ditch has chloride limitations of 360 mg/l monthly average and 590 mg/l daily maximum.

- Sulfate

Based on a review of data during this modification, sulfate was identified in concentrations that demonstrated a Reasonable Potential to Exceed (RPE) Indiana Water Quality Standards. Therefore, WQBELs for chloride are included at Outfalls 001 and 005. The limitations at Outfall 001 are 550 mg/l monthly average and 910 mg/l daily maximum. The limitations at Outfall 005 are 350 mg/l monthly average and 570 mg/l daily maximum.

- Copper, Nickel, Zinc, and Aluminum

The above mentioned parameters are included because they are identified in the general permit by rule for facilities engaging in coal mining (327 IAC 15-7). Reporting requirements have been included to determine if the discharge of these parameters are in concentration that show a reasonable potential to exceed Indiana Water Quality Standards. Samples for the above mentioned parameters are to be solely from the mine dewatering wastestream, collected prior to mixing with flow augmentation waters.

5.5 Antibacksliding

None of the limits included in this permit conflict with antibacksliding regulations found in 327 IAC 5-2-10(11), therefore, backsliding is not an issue.

Pursuant to 327 IAC 5-2-10(11) a permit may not be renewed, reissued or modified which contain effluent limitations that are less stringent than the comparable effluent limitation in the previous permit.

5.6 Antidegradation

327 IAC 2-1.3 outlines the state's Antidegradation Standards and Implementation Procedures. The Tier 1 antidegradation standard found in 327 IAC 2-1.3-3(a) applies to all surface waters of the state regardless of their existing water quality. Based on this standard, for all surface waters of the state, existing uses and the level of water quality necessary to protect existing uses shall be maintained and protected. IDEM implements the Tier 1 antidegradation standard by requiring NPDES permits to contain effluent limits and best management practices for regulated pollutants that ensure the narrative and numeric water quality criteria applicable to the designated use are achieved in the water and any designated use of the downstream water is maintained and protected. Effluent

limits for the following regulated pollutants are being included in this NPDES permit to satisfy the Tier 1 antidegradation standard: iron, manganese, chloride, sulfate, and TSS.

The Tier 2 antidegradation standard found in 327 IAC 2-1.3-3(b) applies to surface waters of the state where the existing quality for a parameter is better than the water quality criterion for that parameter established in 327 IAC 2-1-6. These surface waters are considered high quality for the parameter and this high quality shall be maintained and protected unless the commissioner finds that allowing a significant lowering of water quality is necessary and accommodates important social or economic development in the area in which the waters are located. IDEM implements the Tier 2 antidegradation standard for regulated pollutants with numeric water quality criteria quality adopted in or developed pursuant to 327 IAC 2-1 and utilizes the antidegradation implementation procedures in 327 IAC 2-1.3-5 and 2-1.3-6.

According to 327 IAC 2-1.3-1(b), the antidegradation implementation procedures in 327 IAC 2-1.3-5 and 2-1.3-6 apply to a proposed new or increased loading of a regulated pollutant to surface waters of the state from a deliberate activity subject to the Clean Water Act, including a change in process or operation that will result in a significant lowering of water quality.

This permit includes new permit limitations for chloride and sulfate. In accordance with 327 IAC 2-1.3-1(b), the new permit limitations are not subject to the Antidegradation Implementation Procedures in 327 IAC 2-1.3-5 and 2-1.3-6 as the new permit limitations are not the result of a deliberate activity taken by the permittee.

The permittee is prohibited from undertaking any deliberate action that would result in a new or increased discharge of a bioaccumulative chemical of concern (BCC) or a new or increased permit limit for a pollutant or pollutant parameter that is not a BCC unless information is submitted to the commissioner demonstrating that the proposed new or increased discharge will not cause a significant lowering of water quality, or an antidegradation demonstration submitted and approved in accordance 327 IAC 2-1.3.

5.7 Water Treatment Additives

In the event that changes are to be made in the use of water treatment additives that could significantly change the nature of, or increase the discharge concentration of the additive contributing to Outfalls 001 or 005, the permittee shall notify the Indiana Department of Environmental Management as required in Part II.C.1 of this permit. The use of any new or changed water treatment additives or dosage rates shall not cause the discharge from any permitted outfall to exhibit chronic or acute toxicity. Acute and chronic aquatic toxicity information must be provided with any notification regarding any new or changed water treatment additives or dosage rates. The following water treatment additives have been approved for use at the facility: Hydrated Lime, Calcium Oxide, Sodium Hydroxide, Soda Ash, and Aluminum Sulfate.

6.0 PERMIT DRAFT DISCUSSION

6.1 Discharge Limitations

Outfall 001

Parameter	Monthly Average	Daily Maximum	Units
Flow	Report	Report	MGD
Augment Water Flow	Report	Report	MGD
TSS	35	70	mg/l
Copper	Report	Report	mg/l
Iron	3.0	6.0	mg/l
Chloride	560	930	mg/l
Sulfate	550	910	mg/l
Manganese	2.0	4.0	mg/l
Nickel	Report	Report	mg/l
Zinc	Report	Report	mg/l
Aluminum	Report	Report	mg/l

Parameter	Daily Minimum	Daily Maximum	Units
pH	6.0	9.0	Std Units

Outfall 005

Parameter	Monthly Average	Daily Maximum	Units
Flow	Report	Report	MGD
Augment Water Flow	Report	Report	MGD
TSS	35	70	mg/l
Copper	Report	Report	mg/l
Iron	3.0	6.0	mg/l
Chloride	360	590	mg/l
Sulfate	350	570	mg/l
Manganese	2.0	4.0	mg/l
Nickel	Report	Report	mg/l
Zinc	Report	Report	mg/l
Aluminum	Report	Report	mg/l

Parameter	Daily Minimum	Daily Maximum	Units
pH	6.0	9.0	Std Units

6.2 Monitoring Conditions and Rationale

Analytical and sampling methods used shall conform to the current version of 40 CFR 136 as referenced in 327 IAC 5-2-13(d)(1).

Outfalls 001 and 005

Parameter	Minimum Frequency	Type of Sample
Flow	Weekly	24-Hr. Total
Augment Water Flow	Weekly	24-Hr. Total
TSS	Monthly	Composite[1]
Copper	Monthly	Composite[1]
Iron	Monthly	Composite[1]
Chloride	Monthly	Composite[1]
Sulfate	Monthly	Composite[1]
Manganese	Monthly	Composite[1]
Nickel	Monthly	Composite[1]
Zinc	Monthly	Composite[1]
Aluminum	Monthly	Composite[1]
pH	Weekly	Grab

[1] To account for variability in the characteristics of the discharge, the sample shall consist of at least four (4) grab samples collected at equally spaced time intervals for the entire period of the discharge during a 24-hour period.

6.3 Schedule of Compliance

The circumstances in this NPDES permit do not qualify for a schedule of compliance.

6.5 Spill Response and Reporting Requirement

Reporting requirements associated with the Spill Reporting, Containment, and Response requirements of 327 IAC 2-6.1 are included in Part II.B.2.(d), Part II.B.3.(c), and Part II.C.3. of the NPDES permit. Spills from the permitted facility meeting the definition of a spill under 327 IAC 2-6.1-4(15), the applicability requirements of 327 IAC 2-6.1-1, and the Reportable Spills requirements of 327 IAC 2-6.1-5 (other than those meeting an exclusion under 327 IAC 2-6.1-3 or the criteria outlined below) are subject to the Reporting Responsibilities of 327 IAC 2-6.1-7.

It should be noted that the reporting requirements of 327 IAC 2-6.1 do not apply to those discharges or exceedances that are under the jurisdiction of an applicable permit when the substance in question is covered by the permit and death or acute injury or illness to animals or humans does not occur. In order for a discharge or exceedance to be under the jurisdiction of this NPDES permit, the substance in question (a) must have been discharged in the normal course of operation from an outfall listed in this permit, and (b) must have been discharged from an outfall for which the permittee has authorization to discharge that substance.

6.6 Permit Processing/Public Comment/Post Public Notice Addendum

The draft NPDES permit for the Sunrise Coal Facility was made available for public comment from March 12, 2014, through April 14, 2014, as part of Public Notice No. 2014-3B-RD. During this comment period, a comment letter from Jacob Gennicks, PE, of Sunrise Coal, LLC, was received. The comments submitted by Mr. Gennicks and this

Office's corresponding responses are summarized below. Any changes to the permit and/or briefing memo are so noted below.

Comment: ...The permit reads as both outfalls should be monitored by 24 hour composite sample for the following parameters: Copper, Iron, Chlorides, Sulfate, Manganese, Nickel, Zinc, and Aluminum. Our concern is, due to the uncontrollable discharge at these outfalls, we will not be able to collect a representative sample for a 24 hour period. In most instances the flow is solely dependent on precipitations events. It is conceivable that, after a precipitation event the outfall may flow upon initial precipitations event, but may not continue to flow for a complete 24 hour period making it very difficult to collect proportional flow samples over that duration.

We are committed to satisfy the permit requirements, but are concerned about the ability to do so by the method specified. We are requesting to collect various grab samples over the period of actual discharge to generate an effective composite sample.

Response: IDEM agrees with the above comment. However, the parameters in question are already footnoted in the permit as such:

The composite sample shall consist of at least four (4) grab samples. These grab samples shall be equally spaced during the entire period of the discharge.

There is a footnote in Section 6.2 of this Briefing Memo that states:

To account for variability in the characteristics of the discharge, the sample shall consist of at least four (4) grab samples collected at equally spaced time intervals for the entire period of the discharge during a 24-hour period.

It appears that some clarification is required. The intent of each footnote is to require at least four (4) grab samples to be combined into a composite sample. Each grab sample should be collected at equally spaced intervals over the entire discharge. However, the discharge is limited by a 24-hour day. For example, if a discharge occurs for 48 hours, at least four (4) grab samples should be collected at equally spaced time intervals for either the first 24-hour period, or the second 24-hour period; not equally spaced over 48 hours. Conversely, if a discharge is only anticipated to last 6 hours, at least four (4) grab samples should be collected over the 6-hour period.

No changes are required to the Permit of Briefing Memo.

